

DISTRICT OF COLUMBIA  
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ALCOHOLIC BEVERAGE CONTROL BOARD  
+ + + + +  
MEETING

IN THE MATTER OF:

Sheldon Arpad	
t/a Come to Eat	Fact-
3222 O Street, NW	Finding
Retailer CR - ANC-2E	Hearing
License No. 85370	

(License in Safekeeping)

February 19, 2014

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009, Chairperson Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson  
NICK ALBERTI, Member  
DONALD BROOKS, Member  
MIKE SILVERSTEIN, Member  
HECTOR RODRIGUEZ, Member  
JAMES SHORT, Member

P-R-O-C-E-E-D-I-N-G-S

(10:09 a.m.)

CHAIRPERSON MILLER: Are the parties here from Come to Eat? Okay. So I'm going to call that case. Come to Eat, 3220 O Street, N.W., License No. 85370, in ANC-2C. And this is a Fact-Finding Hearing with respect to a license in safekeeping.

MR. BARON: Good morning, Sandy David Baron on behalf of the licensee.

CHAIRPERSON MILLER: I'm sorry, could you repeat that?

MR. BARON: Sandy David Baron.

CHAIRPERSON MILLER: Okay.

MR. BARON: I'm a colleague of Mr. Schaeffer. He is out of the country visiting his family.

CHAIRPERSON MILLER: Okay.

MR. BARON: Would you like the attorney/agent designation?

CHAIRPERSON MILLER: Oh, could you sit down for a minute because actually the

1       mike picks you up better when you are sitting  
2       down at the table and closer to it.

3               Okay. What did you want to ask?

4               MR. BARON: Did you want the  
5       attorney/agent designation?

6               CHAIRPERSON MILLER: Oh, sure. Do  
7       you want to get that?

8               MEMBER ALBERTI: Ms. Walker will  
9       get it from you.

10              MR. BARON: All right. Thank you.

11              CHAIRPERSON MILLER: Are you in  
12       the same firm or --

13              MR. BARON: Yes.

14              CHAIRPERSON MILLER: Okay.

15              MR. BARON: And with me to my left  
16       is?

17              MR. LaCOMB: Mike LaComb. I have  
18       met with most of you before, a business  
19       manager for Arpad. Thank you.

20              CHAIRPERSON MILLER: Yeah, okay.  
21       So Mr. Baron?

22              MR. BARON: Yes.

1 CHAIRPERSON MILLER: Counsel and  
2 what's your name again?

3 MR. LaCOMB: LaComb.

4 CHAIRPERSON MILLER: LaComb?

5 MR. LaCOMB: Yes.

6 CHAIRPERSON MILLER: Business  
7 manager.

8 MR. LaCOMB: LaComb. Yes.

9 CHAIRPERSON MILLER: All right.  
10 So the last thing we have from you all is a  
11 letter dated December 11, 2013?

12 MR. BARON: Correct.

13 MR. LaCOMB: Yes.

14 CHAIRPERSON MILLER: Indicating  
15 your attempts to sell the license.

16 MR. BARON: That's correct.

17 CHAIRPERSON MILLER: And is there  
18 an update to this?

19 MR. LaCOMB: I'll answer.

20 CHAIRPERSON MILLER: Okay.

21 MR. LaCOMB: Yes. Well, beyond  
22 what we have already included in the letter,

1 I don't -- if you want me to read -- go  
2 through those points I will. Do you want me  
3 to go through them again?

4 CHAIRPERSON MILLER: Well, I -- is  
5 there something new?

6 MR. LaCOMB: Yes.

7 CHAIRPERSON MILLER: Is there  
8 something to add to the --

9 MR. LaCOMB: Yes.

10 CHAIRPERSON MILLER: -- point?

11 MR. LaCOMB: We have just added  
12 some other things. We have also been  
13 advertising in the Washington Post and  
14 Craigslist and we have -- I have made phone  
15 calls to about 20 different Georgetown  
16 commercial real estate brokers personally and  
17 they are telling me that they are going to  
18 look for clients and see what they have got  
19 coming in.

20 I have also put out the word of  
21 mouth to the restaurateurs, as many of them  
22 as I could get to in Georgetown, because we

1 have other licenses involved in our properties  
 2 there, too, so -- and we did have one pretty  
 3 hot potential. We were a little bit away in  
 4 discussing the number of what the sale price  
 5 would be, but they pulled out because of some  
 6 rumor they had heard, so that -- that all the  
 7 licenses were going to be called back in that  
 8 were in safekeeping anyway and so they didn't  
 9 want to go down a road of maybe coming after  
 10 a license that might not be available.

11 So that's where we are.

12 MR. BARON: Can you expand on the  
 13 last contact and on what you said the rumor  
 14 was?

15 MEMBER SILVERSTEIN: Please speak  
 16 up, Mr. Baron.

17 MR. BARON: Okay. Yes. I'm  
 18 sorry. I -- he asked me to expand on that  
 19 last comment.

20 MR. LaCOMB: What the broker that  
 21 was representing the client that wanted to  
 22 purchase our liquor license said to us was

1     that they had heard that the whole theory of--  
2     behind this was that the Board had decided  
3     that they were going to bring all the licenses  
4     back in for safekeeping and then reissue them  
5     back out to new applicants as they were coming  
6     in.

7                 So they believed that they -- they  
8     address with us was why did we want to pay for  
9     a license that we don't have to pay for. So  
10    if we can just then apply to the Board and get  
11    the license, why do we want to have to pay  
12    anybody else that has already gone through the  
13    expense of getting the license. So that's  
14    what happened.

15                Now, I'm not saying that that's  
16    true. I'm just saying that that was what  
17    their perception was and what they had heard.  
18    And that came also from members of the  
19    Georgetown Realtor Association who also  
20    verified that same rumor and that's all I can  
21    tell you.

22                CHAIRPERSON MILLER: So the rumor

1 was not just that your license might be put in  
2 safe -- pulled, but that everybody's was going  
3 to be pulled?

4 MR. LaCOMB: That's exactly what  
5 they heard, yes.

6 CHAIRPERSON MILLER: I know Board  
7 Members have a lot of questions. I just want  
8 to ask you, what -- you referred to expenses  
9 that you had laid out in getting the license.

10 MR. LaCOMB: Well, our legal fees  
11 so far in regards to this license are in  
12 excess of \$20,000.

13 CHAIRPERSON MILLER: Your legal  
14 fees, what are they related to?

15 MR. LaCOMB: The attorneys that we  
16 used to get the license initially and then to  
17 have it moved from a location into safekeeping  
18 and also the -- of course, the renewal fees  
19 that we have also paid are in addition to the  
20 legal fees to keep the license alive.

21 CHAIRPERSON MILLER: Would you say  
22 there is a demand for the license of your's in



1 Georgetown or not?

2 MR. LaCOMB: I haven't found it  
3 yet. If it exists, I would be happy to jump  
4 on it. I actually -- just the gentleman that  
5 came up before us, I actually know him and I  
6 hadn't gotten in touch with him yet, but I  
7 talked to him and he said he may have somebody  
8 that is very interested in that, but he just  
9 left and, of course, we didn't have time to  
10 get into that, because we were getting called  
11 up and he was leaving.

12 CHAIRPERSON MILLER: Okay. I'm  
13 going to let other Board Members ask some  
14 questions. Mr. Alberti, do you have some  
15 questions? Mr. Brooks?

16 MEMBER BROOKS: Oh, yes.

17 CHAIRPERSON MILLER: Okay.

18 MEMBER BROOKS: I just had a  
19 comment. Is Mr. Arpad in the audience?

20 MR. LaCOMB: No, he is not.

21 MEMBER BROOKS: Was he here at the  
22 last hearing?

1                   MR. LaCOMB: He did make one of  
2 the hearings. I can't remember which one it  
3 was. I have been before you. I think this is  
4 my third time here. Yeah, yeah.

5                   MEMBER BROOKS: I don't think he  
6 was with you the last time.

7                   MR. LaCOMB: I think he was once,  
8 but I could be wrong. I --

9                   MEMBER BROOKS: Yeah, he might  
10 have been along, but not the last time.

11                  MR. LaCOMB: But we have other  
12 licenses that we have been before and I can't  
13 -- sometimes I get them mixed up which time he  
14 has been here. He lives in Florida, so it's  
15 difficult for him to get here.

16                  MEMBER BROOKS: I see. Okay.

17                  MR. LaCOMB: Yeah.

18                  MEMBER BROOKS: Thank you, Madam  
19 Chair.

20                  CHAIRPERSON MILLER: Are there  
21 other questions? Yeah, Mr. Alberti?

22                  MEMBER ALBERTI: Mr. LaComb, so

1 let's step back. I would like to sort of get  
2 a time line from you. When did you first  
3 start shopping this license around to either  
4 transfer it or to sell it or to find a new  
5 location for it? When did you start that  
6 process?

7 MR. LaCOMB: Short --

8 MEMBER ALBERTI: Let me say, we  
9 know for back in February of 2013, I believe  
10 you were here.

11 MR. LaCOMB: Yes.

12 MEMBER ALBERTI: I have seen the  
13 transcript to refresh my memory.

14 MR. LaCOMB: I was.

15 MEMBER ALBERTI: You had some  
16 problems with the current location and I think  
17 you concluded, at that time, that it just  
18 wasn't going to work out at that current  
19 location. So the next step that you told us  
20 about was your intention to either sell,  
21 transfer or find a -- transfer to a new owner  
22 or transfer to a new location.

1                   Okay. So when did you start that  
2 process?

3                   MR. LaCOMB: Okay. All right.  
4 Just to get that exactly correct, in February,  
5 we weren't sure yet that we weren't going to  
6 be able to go to that location, because we had  
7 a tenant in there that is a day care. And we  
8 weren't sure if they were going to renew or if  
9 we were going to go in with the restaurant.

10                  So we had to come to that decision  
11 and you had asked us to report back to you.

12                  MEMBER ALBERTI: So when did you  
13 come to that decision?

14                  MR. LaCOMB: Yeah, about August or  
15 September of 2013. We knew we had to come  
16 back to the Board, because you had set a  
17 return date of October. We were here in  
18 October to tell you what our intentions were,  
19 because you had asked us in February to come  
20 back in, basically, six months and say -- tell  
21 us what, you know, you are going to do.

22                  And we knew we were going to come

1 and tell you that we were going to try to sell  
2 it or transfer it and -- to another vendor  
3 and --

4 MEMBER ALBERTI: Okay. What steps  
5 did you take after that? Sort of give me a  
6 time line of what steps you took.

7 MR. LaCOMB: Well, that's when we  
8 started advertising, you know, in the Post in  
9 Craigslist, word of mouth, making phone calls  
10 to the Georgetown Business Association, to the  
11 Washington D.C. Metro Restaurant Association,  
12 to the real estate brokers in the Georgetown  
13 area, all that.

14 MEMBER ALBERTI: Okay. So  
15 December 13, 2013, you wrote us this letter.  
16 Is that correct?

17 MR. LaCOMB: That is correct.

18 MEMBER ALBERTI: Okay. So since  
19 then, what steps have you taken that you could  
20 have, but that you didn't take before or that  
21 you should have? I mean, what --

22 MR. LaCOMB: Well, I --

1                   MEMBER ALBERTI: I'm trying to  
2                   figure out like you opened up today, it was  
3                   like, with all these things that you did. All  
4                   right?

5                   MR. LaCOMB: Correct.

6                   MEMBER ALBERTI: But what I'm  
7                   hearing are those things -- what you have --  
8                   the steps you have just enumerated in your  
9                   opening remarks, were steps that you either  
10                  had taken before December or should have taken  
11                  before December.

12                  MR. LaCOMB: That's correct.

13                  MEMBER ALBERTI: Well, since  
14                  December, what have you done to step up the  
15                  game?

16                  MR. LaCOMB: Well, those efforts  
17                  have been ongoing. And as I mentioned to you,  
18                  that's when we got in -- it was in January,  
19                  the first week of January when we were that  
20                  close to having a deal done and then they  
21                  pulled out, based on the rumor just in  
22                  January.

1                   MEMBER ALBERTI:   So we're now five  
2                   months into this and you have not been able to  
3                   find a prospective buyer?

4                   MR. LaCOMB:   That is correct.

5                   MEMBER ALBERTI:   Or a location?

6                   MR. LaCOMB:   That is correct.  I  
7                   don't --

8                   MEMBER ALBERTI:   Why should we  
9                   believe that you are going to be successful  
10                  any time soon?

11                  MR. LaCOMB:   Okay.  Good question.  
12                  I mean, I wish I had a great answer for you,  
13                  but I don't, but I'm going to give you the  
14                  best answer I got.

15                  MEMBER ALBERTI:   Okay.

16                  MR. LaCOMB:   The best answer I got  
17                  is the timing of this type of industry in  
18                  business, as you know more than I do, is that  
19                  if you can get it going now in the spring and  
20                  the summer and open for the fall, then you are  
21                  in good shape.

22                  Going into the end of the year,

1     hardly anybody in the winter months here wants  
2     to start and get into a business and start  
3     that process then. I think the timing now is  
4     number one of the weather, that's number one.

5                 Number two is we are willing to  
6     take on more expense to go into national  
7     advertising where I think that we might get  
8     more interest of corporate and different types  
9     of people that may want to come in and put a  
10    restaurant in the area.

11                So but that costs a lot more. We  
12    weren't ready to take that step until we at  
13    least got before you and knew you were going  
14    to give us enough time to take the to -- so we  
15    could go forward with that.

16                MEMBER ALBERTI: Okay. So were  
17    you aware that your license was at-risk here?

18                MR. LaCOMB: Yes.

19                MEMBER ALBERTI: Okay. And that  
20    wasn't incentive to give you enough incentive  
21    to take the extra step to go national with  
22    your advertising?



1 MR. LaCOMB: Well, it is a --

2 MEMBER ALBERTI: I'm like  
3 astounded here.

4 MR. LaCOMB: Well, as we have  
5 already --

6 MEMBER ALBERTI: How you've got a  
7 license that is on the line and you believe  
8 it's valuable, I'm not so sure it is any more,  
9 because you don't have a place for it.

10 MR. LaCOMB: Right. Right.

11 MEMBER ALBERTI: So I here your  
12 comment. I'm just astounded that that wasn't  
13 incentive enough for you.

14 MR. LaCOMB: Well, we have already  
15 got \$50,000 into it, so do we want to keep  
16 throwing more money? Going national is going  
17 to probably cost us \$8,000 to \$10,000 more.

18 MEMBER ALBERTI: Okay. Sometimes  
19 it's just like in the Stock Market, it gets  
20 better the longer it's out. All right. Let  
21 me ask another question here.

22 MR. LaCOMB: Okay.

1                   MEMBER ALBERTI: You first applied  
2 for this license in 2009?

3                   MR. LaCOMB: I wasn't involved at  
4 that time. But I want to just say if that's  
5 what you've got in your record, I will --

6                   MEMBER ALBERTI: I believe it was  
7 in 2009.

8                   MR. LaCOMB: Yeah, it's whenever  
9 the moratorium was lifted in Georgetown --

10                  MEMBER ALBERTI: Yeah.

11                  MR. LaCOMB: -- to allow for  
12 liquor licenses.

13                  MEMBER ALBERTI: 2009/2010.

14                  MR. LaCOMB: Simon Osnos was our  
15 attorney.

16                  MEMBER ALBERTI: What happened  
17 between -- I mean, why did it take so long?  
18 Why would it take four years to come to this  
19 conclusion?

20                  MR. LaCOMB: Well --

21                  MEMBER ALBERTI: If it was like or  
22 three at least. Minimum was three years to

1       come to the conclusion that you can't operate  
2       it.

3               MR. LaCOMB: We are like a tragedy  
4       story on this license. Our attorney, Simon  
5       Osnos, developed brain cancer and passed away.  
6       So the whole process for us to get the license  
7       to begin with and to get done with it got  
8       completely extenuated way out there. When he  
9       passed away, nobody could even find his files.  
10      This is -- I came on board about that time.  
11      So -- and they were --

12              MEMBER ALBERTI: Didn't you know  
13      what was going on? Didn't you communicate  
14      with him regularly of what was going on?

15              MR. LaCOMB: Well, I --

16              MEMBER ALBERTI: You got a  
17      license. You knew at least by early 2010, you  
18      knew you had the license. You had to know.  
19      Did your attorney tell you in 2010 you had the  
20      license?

21              MR. LaCOMB: Yeah, we knew we had  
22      the license, yes. We --

1                   MEMBER ALBERTI:   Okay.   So what  
2   happened then?

3                   MR. LaCOMB:   Then we paid the fee,  
4   you know, and got the license.

5                   MEMBER ALBERTI:   Okay.

6                   MR. LaCOMB:   Now, here is the next  
7   steps.   As we progressed, Sheldon Arpad, who  
8   is the owner of the property where we had this  
9   license, he also, like I had mentioned, has  
10   several other establishments in town that have  
11   restaurant licenses in them, but -- for  
12   alcohol.

13                   We have one in Alexandria that has  
14   been -- in Alexandria, Virginia that has been  
15   a partner of Sheldon -- well, not a partner,  
16   but he has been a tenant of Sheldon and done  
17   a very successful restaurant there for many  
18   years.   He was coming into the District with  
19   Sheldon to partner up and they were going to  
20   open a similar -- it was going to be like an  
21   Italian-type restaurant.

22                   MEMBER ALBERTI:   And I would

1       assume you would have known that when you got  
2       the license.

3               MR. LaCOMB:   Well --

4               MEMBER ALBERTI:   Right?

5               MR. LaCOMB:   -- he --

6               MEMBER ALBERTI:   No?   You started  
7       working --

8               MR. LaCOMB:   I wasn't involved.

9               MEMBER ALBERTI:   Well, wait.

10              MR. LaCOMB:   Yes.

11              MEMBER ALBERTI:   I want to know,  
12       did those negotiations start after you got the  
13       license?

14              MR. LaCOMB:   Those negotiations  
15       were not negotiations.   They were the actual--

16              MEMBER ALBERTI:   Okay.   Well, you  
17       have a new partner you negotiated.

18              MR. LaCOMB:   Yeah.

19              MEMBER ALBERTI:   You know, I --

20              CHAIRPERSON MILLER:   Okay.

21              MR. LaCOMB:   Well, he got --

22              MEMBER ALBERTI:   Use whatever

1 words you want.

2 MR. LaCOMB: Right. He got --

3 MEMBER ALBERTI: Did that begin  
4 after you got the license?

5 MR. LaCOMB: I don't know the  
6 answer to that. I'm not going to tell you --

7 MEMBER ALBERTI: Well, if Mr.  
8 Arpad was here, so we could get some straight  
9 answers to that.

10 MR. LaCOMB: Well, I mean, that  
11 was several years ago and it was before I got  
12 involved.

13 MEMBER ALBERTI: I understand.  
14 That's why I would like Mr. Arpad here so we  
15 could get some answers to that.

16 MR. LaCOMB: Well --

17 MEMBER ALBERTI: This is  
18 hamstringing my decision and it's certainly  
19 not going in your favor that I don't have  
20 these answers.

21 MR. LaCOMB: I understand. But I  
22 wanted to finish, if I could, with that

1       tragedy.  If you don't mind, I had mentioned  
2       it the time before.  But then once we got with  
3       this gentleman, unfortunately, he got in a  
4       major car accident.  His wife was killed in  
5       the accident and he became disabled.

6                 Sheldon Arpad, himself, had major  
7       surgery to have a tumor removed from his neck  
8       and couldn't even speak for eight months.  So  
9       that all happened in the last few years.  Now,  
10      we --

11                MEMBER ALBERTI:  Well, give me a  
12      time line.  You want us to know that.  You  
13      want us to use that information.  I need  
14      details from you.  I just can't take this  
15      nebulous so it happened some time in those  
16      four years and I don't really know.  I mean,  
17      it matters to me.  It matters to us.

18                MR. LaCOMB:  The car accident  
19      happened in January of 2012.

20                MEMBER ALBERTI:  Okay.  So from --  
21      and this guy's family -- that was Mr. Arpad,  
22      right?

1 MR. LaCOMB: No, no.

2 MEMBER ALBERTI: That's --

3 MR. LaCOMB: The gentleman--

4 MEMBER ALBERTI: -- the partner.

5 MR. LaCOMB: -- that was coming  
6 in.

7 MEMBER ALBERTI: Oh, okay, so  
8 2012. So that's two years after Mr. Arpad  
9 acquired this license. Why did it take so  
10 long?

11 MR. LaCOMB: Once again, I don't  
12 have that answer for those first two years.  
13 I'm sorry.

14 MEMBER ALBERTI: I have no further  
15 questions.

16 CHAIRPERSON MILLER: Are there  
17 other questions? I just have a couple  
18 clarifying questions. I have in my notes that  
19 you were told that your license would be  
20 canceled if it wasn't sold on or before  
21 December 19, 2013. Is that your recollection  
22 from the last Fact-Finding Hearing? I mean,



1 I'll double check the transcript, but --

2 MR. LaCOMB: No.

3 CHAIRPERSON MILLER: -- were you  
4 on notice that your license would be canceled  
5 if you didn't --

6 MR. LaCOMB: No. We were never  
7 told that here by anybody here. I mean, we  
8 assumed that it's a possibility. We are not,  
9 you know, silly. We knew that that's  
10 something we were facing, that's why we were  
11 making an effort to sell it.

12 CHAIRPERSON MILLER: Were you at  
13 the October 2nd Fact-Finding Hearing?

14 MR. LaCOMB: I was.

15 CHAIRPERSON MILLER: Okay. I'll  
16 double check that.

17 MR. LaCOMB: Yeah.

18 CHAIRPERSON MILLER: What was your  
19 understanding when you came to this hearing  
20 then with respect to the future of your  
21 license?

22 MR. LaCOMB: Today?

1 CHAIRPERSON MILLER: Yeah.

2 MR. LaCOMB: Well, I knew we were  
3 on the line. Either we -- we are here to ask  
4 for a little more time if you will be gracious  
5 enough to give it. We will make our absolute  
6 best effort to sell it, just so we can at  
7 least try to recover some of our cost that we  
8 have to do this.

9 If not, we are at your mercy.  
10 There is nothing we can do. I mean, I knew  
11 that coming here.

12 CHAIRPERSON MILLER: Okay. So  
13 what is it that we would -- that you would do  
14 and how much time, a month or two months, that  
15 would be different from what you have been  
16 doing since December?

17 MR. LaCOMB: We will take the step  
18 to go to national advertising immediately. I  
19 mean, as soon as I go out of here, I will make  
20 a phone call and we will transact that moment.  
21 That's -- and I think with the better weather,  
22 that I have a much better chance of making

1       this happen.

2                   And as I mentioned to you, I just  
3       made a connection back there with a gentleman  
4       that may have somebody for me right away. So  
5       and I also think I can open back up the  
6       discussions with that previous one that walked  
7       away because of what he had heard in a rumor.

8                   CHAIRPERSON MILLER: Okay. So you  
9       understand that, you know, part of what is  
10      behind this is that you have been sitting on  
11      a license for years that somebody else would  
12      have been using.

13                  MR. LaCOMB: Absolutely. We don't  
14      want to sit on that any more than you want us  
15      to sit on it. Trust me.

16                  CHAIRPERSON MILLER: So --

17                  MR. LaCOMB: We want to get it off  
18      our hands as soon as possible.

19                  CHAIRPERSON MILLER: Right. But I  
20      mean, this has to come to closure and so I  
21      just want to hear if you have anything else  
22      you want to say with respect to why, you know,

1       one month is going to make a difference or  
2       some time.

3               MR. LaCOMB:  I would hope you  
4       would give us a little more than one month.  
5       It's just not enough time to make this kind of  
6       a transaction.

7               CHAIRPERSON MILLER:  I'm not  
8       saying --

9               MR. LaCOMB:  Yeah.

10              CHAIRPERSON MILLER:  I'm saying  
11       you can put on the record right now what it is  
12       you are saying you need and this is, I'm sure,  
13       going to be -- I'm not sure, but I'm pretty  
14       sure this is going to be the last --

15              MR. LaCOMB:  I understand that.

16              CHAIRPERSON MILLER:  -- chance, if  
17       there is another chance, I mean.  I don't  
18       know.  There are a lot of chances built into  
19       the record already, so I just want you to be  
20       able to articulate right now what it is you  
21       plan to do and, you know, the time you need,  
22       so we have it for our consideration.

1 MR. LaCOMB: I'm sorry?

2 CHAIRPERSON MILLER: You didn't --

3 MEMBER ALBERTI: Okay.

4 CHAIRPERSON MILLER: -- answer.

5 MR. LaCOMB: No, no, I am just  
6 looking.

7 CHAIRPERSON MILLER: If you don't  
8 have an answer, you don't have an answer.

9 MR. BARON: I think he has already  
10 -- I'm sorry, Madam Chair, may I respond?

11 CHAIRPERSON MILLER: Yes.

12 MR. BARON: I think he earlier  
13 indicated to you what his future plans are.

14 CHAIRPERSON MILLER: I hear he is  
15 going to go national and make a phone call and  
16 it takes more than a month, that's all I  
17 heard.

18 MR. BARON: Well, no. He was  
19 going to go to national today to make the  
20 phone call to get it advertised nationally.  
21 And I think the main point he was making is  
22 that the decision to sell, I think, was in the

1 fall of 2013 right before the holiday season  
2 and that was not a good time to sell.

3 Now is the opportune time to sell  
4 and, from what I understand he was saying,  
5 they didn't want to spend \$8,000 to \$10,000 in  
6 national advertising in the fall/early winter  
7 of 2013 when the prime time to try to sell it  
8 is now upon us.

9 CHAIRPERSON MILLER: Okay. I have  
10 that. So what's the answer though with  
11 respect to if you do this national  
12 advertising, which is the strategy --

13 MR. LaCOMB: Would you be willing  
14 to give me three months to do --

15 CHAIRPERSON MILLER: I can't say  
16 what the Board is going to be willing to do.

17 MR. LaCOMB: Okay.

18 CHAIRPERSON MILLER: What I want  
19 to hear from you is, and then we will  
20 consider, what you think you need and why and  
21 then the Board will consider that.

22 MR. LaCOMB: Well, having -- I

1     don't want to test your patience any more than  
2     what we have done already.  No more than -- we  
3     want just to go on any longer and we'll come  
4     to conclusion with it one way or the other  
5     with you.

6                     I would ask, humbly, for three  
7     months.  If I get three months, I will step  
8     this up to the nth degree and absolutely do  
9     our best to sell it.  And if we don't -- time  
10    is now for the sale in this time of year.

11                    CHAIRPERSON MILLER:  Okay.

12                    MEMBER SILVERSTEIN:  Madam Chair?

13                    CHAIRPERSON MILLER:  Yes, Mr.  
14     Silverstein?

15                    MEMBER SILVERSTEIN:  I think it is  
16     important that we put some things on the  
17     record.  The gentleman has said that he does  
18     not recall being told certain things and this  
19     was from the June 19th hearing and my  
20     colleague, Mr. Alberti, has matters from the  
21     October 2nd hearing.

22                    This is after we recessed, came

1 back and discussed and I was Chair, at the  
2 time, temporarily.

3 "Thank you, Mr. LaComb, and thank  
4 you, Mr. Schaeffer, for coming here to helping  
5 to bring a little bit of clarity to this very  
6 difficult and muddled situation. We would  
7 like to make the situation, if possible, a  
8 little more clear.

9 This is what Mr. Arpad has,  
10 something of value, both the city, to other  
11 operators and to your organization. It is  
12 there, use it or lose it. I would like to  
13 propose that we give you six months, which is  
14 what we do with everyone virtually unless  
15 there is some extraordinary situation. And we  
16 ask you to come back six months from now with  
17 one of these two paths:

18 One is that the lease has been  
19 terminated as of the end of the year and that  
20 you have received DCRA-approval for an  
21 operating permit for a license at that site,  
22 not final approval to open it, but preliminary



1 approval.

2 And the second path is that of a  
3 transfer application to another owner. We  
4 have faced this dilemma previously and we must  
5 treat all of our applicants, and this was in  
6 fact in the Georgetown Glover Park area and it  
7 was within the past three months, and we must  
8 treat everyone equally.

9 And this is what we have done in  
10 the past and this is what we will do in this  
11 case."

12 MR. LaCOMB: Correct.

13 MEMBER SILVERSTEIN: Mr. Alberti  
14 has comments that were made in the --

15 MEMBER ALBERTI: In October, I  
16 believe, 2, 2013. Mr. Schaeffer was here  
17 representing Mr. Arpad.

18 MR. LaCOMB: Correct.

19 MEMBER ALBERTI: And he says "A  
20 broker has been engaged. There actually have  
21 been some discussions with potential  
22 purchasers, though there hasn't been a firm

1       agreement on the price, but it is very  
2       possible that it will result in a sale."

3               MR. LaCOMB:   Yes.

4               MEMBER ALBERTI:  "If that doesn't  
5       happen, perhaps the license continues to be  
6       marketed and I feel comfortable that before  
7       the end of the year, the license will be sold  
8       and the purchaser will file an application to  
9       transfer to the location -- to some other  
10      location in Georgetown."

11              Okay.  So then Ms. Miller says  
12      "Okay."  And you -- okay.  "I just want to  
13      make sure you understand what you need to show  
14      the Board before December 19, 2013, so that  
15      it's not canceled.  I mean, in the event that  
16      you are marketing this, that you need to have  
17      a real transferee in place, at that point, and  
18      with documents proving that like a lease or  
19      like a sale agreement or whatever as of  
20      December 19, 2013."

21              MR. LaCOMB:  Correct.

22              MEMBER ALBERTI:  So I don't know

1 if you remember.

2 CHAIRPERSON MILLER: Okay.

3 MEMBER ALBERTI: I don't know if  
4 you were here, but Mr. Schaeffer was here.  
5 And he should have informed his client of  
6 such.

7 MR. BARON: Right. I wasn't  
8 there. I heard what you said in the  
9 transcript. I'm not sure that's specifically  
10 advising that as of December without a  
11 transfer that the Board is going to make the  
12 decision to cancel.

13 It certainly does indicate that  
14 that would be the intent of the Board, but we  
15 are here at the request -- to explain to you  
16 what has happened and explain to you that  
17 when, I believe, Board Member Silverstein  
18 indicated, I think it was in the spring there  
19 was a letter, February, six months and that  
20 you had to take -- tell us what path you were  
21 going on within that six months.

22 The applicant said the path was

1 the sale of the license. And that's the path  
2 that they have been going on since the fall,  
3 September/October 2013. So they have been  
4 trying to sell it since then, but just not at  
5 the right time.

6 CHAIRPERSON MILLER: Yeah, yeah,  
7 okay. Mr. Rodriguez?

8 MEMBER RODRIGUEZ: Mr. LaComb, I'm  
9 new on this Board, but I have some questions  
10 for you.

11 MR. LaCOMB: Sure.

12 MEMBER RODRIGUEZ: One question is  
13 you said that you did advertising in the  
14 Washington Post.

15 MR. LaCOMB: Yes.

16 MEMBER RODRIGUEZ: And do you have  
17 an estimate as to what you spent in the  
18 advertising in the Washington Post?

19 MR. LaCOMB: I would say it was in  
20 the neighborhood of \$1,200 to \$2,000 somewhere  
21 right in there.

22 MEMBER RODRIGUEZ: Can you provide

1     this Board a copy of the advertising to see?  
2     Because I'm new, I need to see what kind of  
3     advertising you did with the Washington Post.  
4     And why you couldn't get even a nibble.

5                 MR. LaCOMB: We actually have some  
6     nibbles, sir. I mean, I was close, very  
7     close. The first week of January, I thought  
8     I could pull this off. I just -- the guy  
9     pulled out because of what he had heard.

10                MEMBER RODRIGUEZ: Could you  
11     present our Board a copy of the advertising  
12     that you used, sir?

13                MR. LaCOMB: I can't. I can't  
14     right this moment.

15                MEMBER RODRIGUEZ: Right.

16                MR. LaCOMB: But I -- yes, I can.

17                MEMBER RODRIGUEZ: Okay. Thank  
18     you.

19                MR. LaCOMB: Yes.

20                MEMBER ALBERTI: May I just  
21     follow-up with that?

22                CHAIRPERSON MILLER: Yes, uh-huh.

1                   MEMBER ALBERTI: Mr. Rodriguez,  
2                   you know, I'm not sure this is going to  
3                   continue. I'm not sure where I stand on that.  
4                   I think I would like to talk to the rest of  
5                   the Board. But in the event that this  
6                   continues, I think you are -- you made a good  
7                   point and maybe --

8                   CHAIRPERSON MILLER: Yeah.

9                   MEMBER ALBERTI: -- we could ask  
10                  the licensee to show evidence of all the  
11                  efforts.

12                  CHAIRPERSON MILLER: Right.

13                  MEMBER ALBERTI: And all of the  
14                  close calls you have.

15                  MR. LaCOMB: Okay.

16                  MEMBER ALBERTI: You know, with  
17                  whom they were made. I don't need the dollar  
18                  amounts, the details, but I need to know. You  
19                  know, if this was to continue, I would certain  
20                  want a show-me of everything --

21                  MR. LaCOMB: Okay.

22                  MEMBER ALBERTI: -- that you have

1     done.  How close you -- you know, who was it  
2     in your negotiation and some description of  
3     how close you got.

4                   MR. LaCOMB:  That's correct.  I  
5     might even be able --

6                   MEMBER ALBERTI:  That's only fair  
7     to this Board.

8                   MR. LaCOMB:  I understand.  I  
9     understand.  Thank you.

10                  CHAIRPERSON MILLER:  Good  
11     question.  I also want to just clarify this.  
12     You did not buy this license from someone  
13     else.  That's not one of your expenses.

14                  MR. LaCOMB:  No, we --

15                  CHAIRPERSON MILLER:  You got it  
16     through the District.

17                  MR. LaCOMB:  -- secured it during  
18     the moratorium directly, yes.

19                  CHAIRPERSON MILLER:  So all of  
20     your expenses were kind of voluntary expenses,  
21     what you needed to do with it with respect to  
22     it being a business or advertising to sell.

1       There weren't any --

2                   MR. LaCOMB:   Right.

3                   CHAIRPERSON MILLER:   Well, I don't  
4       know.   Is that correct?

5                   MR. LaCOMB:   Yeah.   I'm not sure  
6       how that is any different than any type of  
7       business transaction whether we were trying to  
8       buy it off somebody else, that would be  
9       voluntary, too.   It wouldn't matter.   There is  
10      a cost involved.

11                  CHAIRPERSON MILLER:   No, I  
12      understand.   Some times though when people  
13      have bought a license and they are trying to  
14      sell it to get back the money that they paid  
15      for it initially.

16                  MR. LaCOMB:   Right.   No, we are  
17      just trying --

18                  CHAIRPERSON MILLER:   That's not  
19      your case?

20                  MR. LaCOMB:   -- to cover costs.  
21      We don't even care if we make a profit.   We  
22      just want our costs.   That's all.



1 CHAIRPERSON MILLER: Okay.

2 MR. LaCOMB: I mean, we would  
3 probably take a loss if we had the right  
4 offer. So we are not trying to hold on. We  
5 want you to have a going -- business going.

6 CHAIRPERSON MILLER: Okay. Any  
7 other questions right now? All right. I  
8 think that the Board would like to recess and  
9 deliberate with counsel on this and then get  
10 back to you. I mean, if you can wait here.

11 Is that correct? Is that the  
12 consensus of the Board?

13 ALL: Yes.

14 CHAIRPERSON MILLER: Okay. Okay.  
15 That's what I was sensing. All right. I'm  
16 going to then read the instructions for our  
17 vote to go into closed session.

18 All right. As Chairperson of the  
19 Alcoholic Beverage Control Board for the  
20 District of Columbia and in accordance with  
21 Section 405 of the Open Meetings Amendment Act  
22 of 2010, I move that the ABC Board hold a

1 closed meeting for the purpose of seeking  
2 legal advice from our counsel on the case  
3 involving Come to Eat, License No. 85370, per  
4 Section 405(b)(4) of the Open Meetings  
5 Amendment Act of 2010, and deliberating upon  
6 this case for the reasons cited in Section  
7 405(b)(13) of the Open Meetings Amendment Act  
8 of 2010.

9 Is there a second?

10 MEMBER SILVERSTEIN: Second.

11 CHAIRPERSON MILLER: Mr.

12 Silverstein seconded the motion. I will now  
13 take a roll call vote on the motion now that  
14 it has been seconded.

15 Mr. Brooks?

16 MEMBER BROOKS: I agree.

17 CHAIRPERSON MILLER: Mr. Alberti?

18 MEMBER ALBERTI: I agree.

19 CHAIRPERSON MILLER: Mr.

20 Rodriguez?

21 MEMBER RODRIGUEZ: I agree.

22 CHAIRPERSON MILLER: Ms. Miller

1 agrees.

2 Mr. Silverstein?

3 MEMBER SILVERSTEIN: I agree.

4 CHAIRPERSON MILLER: Mr. Short?

5 MEMBER SHORT: I agree.

6 CHAIRPERSON MILLER: It appears  
7 that the motion has passed by a vote of 6-0-0,  
8 so the Board will now go into closed session  
9 and we will return shortly.

10 MR. LaCOMB: Okay. Thank you.

11 CHAIRPERSON MILLER: Thank you.

12 (Whereupon, at 10:41 a.m. a recess  
13 until 10:56 a.m.)

14 CHAIRPERSON MILLER: Okay. The  
15 Board is back on the record after doing some  
16 deliberation on this matter in closed session.  
17 And we are now going to put this on the  
18 record, so that everyone can hear.

19 So the Board has considered the  
20 history of this case and, in particular,  
21 looked at -- well, I, in particular, looked at  
22 the sequence of events of Fact-Finding

1     Hearings here and what we said at different  
2     Fact-Finding Hearings and what notice this  
3     licensee was under with respect to actions  
4     that needed to be taken in order to avoid  
5     cancellation of the license.

6             And unfortunately, it's my view  
7     that -- I think that the licensee was under  
8     clear notice that December 19th was really the  
9     date that the Board needed and expected  
10    information showing that he was making  
11    specific efforts to sell and that there was a  
12    lease or a sale or whatever.

13            And I want to -- I'm reading my  
14    quote from the October 2nd transcript, I  
15    believe, in which I said, I was referencing a  
16    letter to Mr. Schaeffer that said "Mr. Arpad  
17    understands that if he is unable to sell the  
18    license on or before December 19, 2013, the  
19    Board has the authority to deem the license  
20    abandoned and cancel the license in  
21    safekeeping and that Mr. Arpad will keep the  
22    Board advised of any progress he makes in his

1 attempt to sell the license."

2 And I think that the December 19th  
3 letter that was submitted is really inadequate  
4 with respect to showing really specific  
5 progress or efforts. It is very general and  
6 I think that the Board needs to stick to what  
7 it says and that we gave clear guidance. And  
8 it just looks to me like we just can't keep  
9 extending the time, because this is a public--  
10 this is a license for the public and this  
11 applicant has done nothing with it for four  
12 years. And I think that the time has run out.

13 So I think that is unfortunate,  
14 but I think that's the reality here. And so  
15 I would move to cancel and ask for a second.  
16 And then see -- cancel the license, ask for a  
17 second and then see if others want to speak to  
18 the issue.

19 MEMBER SILVERSTEIN: I second,  
20 Madam Chair.

21 CHAIRPERSON MILLER: Okay. So Mr.  
22 Silverstein has seconded the motion. Does

1 anyone else want to speak to this? No? Okay.  
2 I think that the Board Members did speak to  
3 this issue before we went into session as  
4 well.

5 So, okay. There is a motion then  
6 to --

7 MEMBER SILVERSTEIN: Madam Chair?

8 CHAIRPERSON MILLER: Yes? Oh, you  
9 do want to speak to it?

10 MEMBER SILVERSTEIN: I do.

11 CHAIRPERSON MILLER: Okay.

12 MEMBER SILVERSTEIN: I simply want  
13 to say that we did take another license out of  
14 safekeeping and canceled that involving  
15 another individual and that we are required to  
16 treat all people equally.

17 We did that to a small business  
18 woman in Glover Park and we have to do the  
19 same here. The idea that we are taking all  
20 licenses out of safekeeping and taking them  
21 all back is not true.

22 However, we -- safekeeping is a

1 temporary issue involving hardship, involving  
2 the time that is required to get through  
3 hoops, involving the time it required to make  
4 repairs on a place, things of that sort.

5 It is not simply kicking the can  
6 down the road indefinitely and we cannot do  
7 that. These licenses do not belong,  
8 especially in a Moratorium Zone, to a person  
9 who simply gets in first in line and can keep  
10 it for an extended period of time. They are  
11 a public entity.

12 And that's why we are making this  
13 move. I'm speaking for myself. Thank you,  
14 Madam Chair.

15 CHAIRPERSON MILLER: Thank you.  
16 Others? I just want to also add to what you  
17 said. It's true that 25-791 deals with  
18 safekeeping and it talks about temporary  
19 surrender of license and it deals in six month  
20 increments.

21 So this has been, you know, not  
22 used for over four years. So, okay. Anything

1 else? The motion has been seconded.

2 All those in favor of the motion  
3 say aye.

4 ALL: Aye.

5 CHAIRPERSON MILLER: All those  
6 opposed? All those abstaining? The motion  
7 passes 6-0-0.

8 I want to say that you will be  
9 getting a written order canceling, a  
10 cancellation and then that is subject -- if  
11 you want to file a Motion for Reconsideration,  
12 that's your legal right, just so you know what  
13 to expect.

14 MR. LaCOMB: Thank you.

15 CHAIRPERSON MILLER: Okay. Thank  
16 you.

17 MR. LaCOMB: The cancellation  
18 date? It will be effective immediately or  
19 will it be --

20 CHAIRPERSON MILLER: When the  
21 written order is issued.

22 MR. LaCOMB: Okay. Thank you.



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CHAIRPERSON MILLER: Okay.

(Whereupon, the Fact-Finding  
Hearing in the above-entitled matter was  
concluded at 11:01 a.m.)

A				
<b>\$1,200</b> 36:20	16:16,19 17:2,6	9:19 20:7 22:8,14	<b>best</b> 15:14,16 26:6	48:10,17
<b>\$10,000</b> 17:17 30:5	17:11,18 18:1,6	23:6,21 24:8 32:9	31:9	<b>cancer</b> 19:5
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<b>\$8,000</b> 17:17 30:5	21:16,19,22 22:3	12:19	41:19	40:19 42:2,6
<b>a.m</b> 2:2 43:12,13	22:7,13,17 23:11	<b>Association</b> 7:19	<b>beyond</b> 4:21	43:20
49:4	23:20 24:2,4,7,14	13:10,11	<b>bit</b> 6:3 32:5	<b>certain</b> 31:18 38:19
<b>abandoned</b> 44:20	29:3 31:20 33:13	<b>assume</b> 21:1	<b>board</b> 1:2,11 7:2,10	<b>certainly</b> 22:18
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<b>accident</b> 23:4,5,18	20:14	2:20 3:5	<b>bought</b> 40:13	5:4,7,10 7:22 8:6
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